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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,737	10/07/2003	Kim Sutton-Rainey	RAIN-I-1005	5294
25315 7590 04/12/2007 BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			EXAMINER GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/680,737	Applicant(s) SUTTON-RAINEY ET AL.	
	Examiner Bryon P. Gehman	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 6, 2007 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-12, 14-15, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Maroszek (5,052,552). Claims 1, 4, 6-10, 14-15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Daughtry (3,703,982). Each discloses a multi-use carrier comprising a single die-cut sheet (12; 220; respectively) made of a flexible material having a first plurality of crease lines (82-88; 228, 230, 234), a second plurality of crease lines (58-64 and 106-108; 257, 257), a handle cutout (136 and 138; between 224 and 235), a plurality of slots (46, 48; 261, 261), a plurality of tabs (112, 114; 259, 259) and a plurality of vessel apertures (116-122 and 128-134; between 247 and 254), whereby a first pivoting action (Figure 5; from Figure 4 to Figure 3 or Figure 8 to Figure 7, then opening the flattened sheets to an expanded shape) substantially

erects the single die-cut sheet to an expanded carrier having the handle cutout define a handle (40; 232 or 332) and the plurality of vessel apertures disposed along the perimeter of the carrier and a second pivoting action (from Figure 2 to Figure 1; inserting 259 into 261) engages the plurality of tabs (112, 114; 259, 259) with the plurality of slots (46, 48; 261, 261) to form a central chamber (inside panels 14, 16, 42 and 44; between 254 and 254) spanned by the handle and surrounded by the plurality of vessel apertures (as much as applicants').

As to claims 2-3 and 11-12, the vessel apertures of Maroszek as disclosed are substantially circular apertures.

As to claim 4, Daughtry discloses paper to comprise the claimed carrier.

As to claims 6-9, 14-15 and 20, the described surfaces of Maroszek and Daughtry are inherently capable of receiving messages and images if so provided. A recitation of the intended use of the claimed invention (or portion thereof) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As to claim 18, Figure 5 of Maroszek indicates a three layer folding.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3, 6-12, 14-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maroszek. To any degree the claimed carrier and sheet may be argued to not be exactly met by the carrier and sheet of Maroszek as described, those differences are held to be inherent or fall within the realm of common knowledge in the art.

As to claims 2-3 and 11-12, the various aperture shapes recited are disclosed as obvious variants of one another and such is also maintained by the examiner.

As to claims 6-9, 14-15 and 20, the described surfaces of Maroszek are inherently capable of receiving messages and images if so provided.

As to claims 16 and 17, the particular dimensioning of the sheet and carrier is not seen to provide any new and unexpected result.

6. Claims 1, 5-10, 13-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daughtry. To any degree the claimed carrier and sheet may be argued to not be exactly met by the carrier and sheet of Maroszek as described, those differences are held to be inherent or fall within the realm of common knowledge in the art.

As to claims 4-5, 13 and 19, Daughtry discloses a carrier and sheet made from paper material, such as cardboard. The various particular cardboard materials recited are disclosed as obvious variants of one another and the examiner also maintains such.

As to claims 6-9, 14-15 and 20, the described surfaces of Daughtry are inherently capable of receiving messages and images if so provided.

As to claims 16 and 17, the particular dimensioning of the sheet and carrier is not seen to provide any new and unexpected result.

7. Claims 4-9, 13-15 and 19-20 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Maroszek in view of Picciolo (5,797,486). As to claims 4-5, 13 and 19, Picciolo discloses a carrier and sheet made from paper material, such as cardboard. To modify the carrier and sheet of Maroszek employing paper material such as cardboard would have been an obvious substitution of materials already well known in the field, as demonstrated by Picciolo. The various particular materials recited are disclosed as obvious variants of one another and such is also maintained by the examiner.

As to claims 6-9, 14-15 and 20, Picciolo discloses providing the handle with various indicia (printed messages and indicia, see column 3, lines 20-41) to provide information. The various recited indicia locations are disclosed as obvious variants of one another and the examiner maintains such.

8. Claims 6-9, 14-15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daughtry in view of Picciolo (5,797,486). Picciolo discloses providing the handle with various indicia (printed messages and indicia, see column 3, lines 20-

41) to provide information. The various recited indicia locations are disclosed as obvious variants of one another and the examiner maintains such.

9. Applicant's arguments filed March 6, 2007 have been fully considered but they are not persuasive. With respect to applicants' claimed central chamber, such has not been distinguished structurally from the described central chamber of Maroszek in any manner. In response to applicant's arguments against the references individually, specifically the secondary reference to Picciolo, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The teaching employed from Picciolo does not require the central chamber to render it analogous to combine the references. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

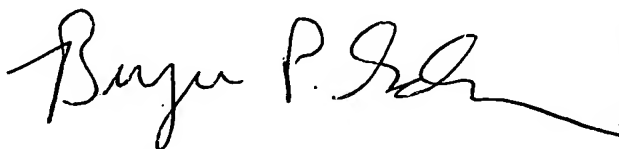
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272-4555. The examiner can normally be reached on Tuesday through Thursday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG